



City of Seattle

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Gregory J. Nickels, Mayor

**Department of Design, Construction and Land Use**

D. M. Sugimura, Director

**CITY OF SEATTLE  
ANALYSIS AND DECISION OF THE DIRECTOR OF  
THE DEPARTMENT OF DESIGN, CONSTRUCTION AND LAND USE**

**Application Number:** 2202939

**Applicant Name:** Huff Family Trust  
Representative: Kevin Preston

**Address of Proposal:** 3827 S. Alaska Street

**SUMMARY OF PROPOSED ACTION**

Master Use Permit to establish use for future construction of three single family residences with attached garages for a cluster development in an environmentally critical area.

\*The original project description was as follows: Master Use Permit to establish use for future construction of a 2-unit townhouse and a single family residence with attached garages for a cluster development in an environmentally critical area.

The following approvals are required:

Environmentally Critical Areas Conditional Use: – To recover development credit and permit clustered development in a designated ECA, SMC Chapter 25.09.

SEPA – Environmental Determination – SMC Chapter 25.05

**SEPA DETERMINATION:** ☐ Exempt ☒ DNS ☐ MDNS ☐ EIS

☐ DNS with conditions

☐ DNS involving non-exempt grading or demolition  
or involving another agency with jurisdiction

**BACKGROUND DATA**

### Site and Vicinity

The 15,764 sq. ft. project site is located at 3827 S. Alaska Street. It consists of two parcels one an irregular shaped (8,065 sq. ft.) and the other roughly a square (7,699 sq. ft.). It is zoned Single Family residential with 5000 square foot minimum lot size. The property is currently described as Block 2 lot 10-11 Kramer Heights, replated Parcel "C" and "D" Seattle Short Subdivision No. 9105032, recorded under recording numbers 9312081083 and 9402070857. The tax identification numbers are 2929900062 and 2929900058. The proposal site is currently undeveloped. The topography is characterized by steep slopes along the southern half of the site. Portions of this slope are greater than 40 percent.

The amount of steep slope found on the project site is 8,570 square feet (54% of the site). Thus the amount of property that is not characterized by steep slopes is 7,195 square feet. Steep slopes are the only critical areas mapped on site. The site is vegetated with grass, shrubs, and trees. The larger trees on site are mainly big leaf maples. The site fronts South Alaska Street for approximately 135 feet and has approximately 87 feet of street frontage on 39<sup>th</sup> Ave South. Vehicular access for ingress and egress will be off of South Alaska Street. There is an apartment building to the west of the site, however the neighborhood is predominately single family residential composed of lots of varying sizes developed. Directly across South Alaska Street, to the north of the property, there is a city park.

### Proposal

The proposal is to establish use for future construction of three single family residences with attached garages for a cluster development in an environmentally critical area. The proposal site consists of two legal building sites: one an irregular shaped (8,065 sq. ft.) lot and the other roughly a square (7,699 sq. ft.) lot. It is zoned Single Family residential with 5000 square foot minimum lot size. As such, two single-family residences are allowed to be constructed, one on each lot. The proposed site contains a total of 15,764 sq square feet, which would generally provide adequate area for three lots and the construction of up to three single-family homes in this SF 5000 zone on a site without designated critical areas.

The applicant has applied for an administrative conditional use permit in order to develop the site to its full development capacity of three residences. The proposal would cluster the new homes in the least sensitive portion of the site, where disturbance of the steep slope can be minimized. The City's ECA Ordinance provides certain development standards (SMC 25.09.260) for the recovery of development credit and to permit clustered proposals on lands with steep slope, in addition to the standards set forth in the Land Use Code (SMC 23.24).

### Public Comments

The notice for the proposed project was published on December 19, 2002. The comment period ended on January 1, 2003, and no comments were received.

### **Environmentally Critical Area Regulations:**

Seattle Municipal Code (SMC) Sections 25.09.060 establish standards that apply to all development within designated Environmentally Critical Areas, which includes submittal requirements for verifying the location of all such areas. SMC Section 25.09.180 provides specific standards for development on steep slopes and steep slopes buffers on existing lots, including the general requirement that development shall be avoided in steep slope areas whenever possible. If avoidance of development in steep slope areas is not practicable, then a standard applies limits grading, developmental activity, and other land disturbing activity to a maximum of 30% of the area measured as steep slopes of 40% or greater. General requirements and standards described in Section 25.09.060 include the recording of conditions, as well as specific construction methods and procedures.

SMC Section 25.09.260 provides a process for DCLU to authorize up to full development credit in a single-family zone through an administrative conditional use review. The Director may approve, condition, or deny an application based upon a determination of whether the proposed recovery of development credit on the site meets applicable criteria. Section 25.09.260 also allows clustering of more than one principal structure on a single site. The proposed three structures and other land disturbing activity comply with the standards of SMC Section 25.09.180 A1 and A3 which, requires that development on areas over 40% slope be avoided whenever possible. The Critical Areas Policies for steep slopes indicates that the ECA Conditional Use was intended to allow recovery of development credit in steep slope areas, provided that the development standards for steep slopes set forth in Section 25.09.180 are met.

**ANALYSIS – ECA CONDITIONAL USE TO RECOVER DEVELOPMENT CREDIT AND PERMIT CLUSTERED DEVELOPMENT:**

Section 23.42.042 of the Seattle Municipal Code authorizes review of conditional use permits according to the procedures set forth in Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decision. Section 25.09.260 of the ECA ordinance set forth the review of criteria for Administrative Conditional use Permits (ACU) to recover development credit and permit clustered development on-site in single-family zones. The following are the applicable review criteria and supporting analysis:

- A. Up to full development credit on-site is determined by calculating the maximum number of lots allowed based on the underlying single-family zoning and size of the originating property may be granted by the Director through an administrative conditional use permit, authorized under SMC Section 23.42.042, Conditional uses, in the Land Use Code.

The minimum lot size in this zone is 5,000 square feet. The existing site is approximately 15,765 square feet (including steep slope areas) and the number of building sites proposed for this application is three or an average of approximately 5,255 square feet of lot area per structure. As previously described, the applicant has applied for a conditional use permit in order to develop the site to its full density capacity of three single-family residences. The conditional use provisions of SMC Section 25.09.260, allows clustering of multiple structures on one site as an alternative to short platting. The applicant has therefore applied for an ECA

administrative conditional use to recover sufficient development credit to construct and cluster three residences on the two existing legal building sites, and to allow a unit lot subdivision in the future.

SMC Section 25.09.260 A allows recovery of development credit on a parcel of property provided that the criteria are met.

Discussion of the criteria in subsection E (1-9) is followed by analysis of the clustering provisions of subsection F, G and H, and then by analysis of the general conditional use criteria of subsection B and C.

E. The Director may approve the transfer of development credit if it can be shown that the development would meet the following conditions and findings;

- 1. The transfer of development credit shall not result in any significant increase of negative environmental impacts, including erosion, on the identified ECA and its buffer.*

Development on the site will occur within the least sensitive area of the site; where disturbance of the steep slope is occurring, the disturbance will be 29%. Stormwater runoff from the project will be collected in roof downspouts and driveway catch basins and conveyed to the City's existing storm drain system in South Alaska Street. Limitation of land disturbing activity will be a condition of approval of the proposed development, as will the designation of the remainder of the site as a non-disturbance area by ECA covenant.

Seattle Department of Transportation (SDOT) has approved the access to the three proposed residences. These separate driveways will minimize impacts to the steep slope and reduce the amount of impervious surface on site.

The least sensitive area of the site is currently covered with vegetation, including trees that contribute to the soil stability. All vegetation that will be removed from the site would be done on the least sensitive area only, and no further vegetation removal is needed. Accordingly, the proposal, as conditioned according to this decision, will meet the first criterion for conditional use approval.

- 2. The development shall be reasonably compatible with neighborhood characteristics. This shall include but not limited to concerns such as height, bulk, scale, yards, pedestrian environment, and amount of vegetation remaining.*

The lot sizes in the neighborhood range from 5,909 square feet to 25,738 square feet; in the vicinity the average is 6,632 square feet. Under the clustering proposal, individual building sites, will be concentrated within the least sensitive area on the site, although the total individual lot area will extend to include the undisturbed ECA areas.

The standard yard requirements for single family residential are as follows: front yard is the average of the front yards of the single family structures on either side or 20 feet whichever is

less and the side yard setbacks are 5 feet. In order to minimize disturbance to the steep slope critical areas, under the cluster provision yard reductions are proposed. The proposed yard reductions include less than 20 foot front yards and less than 5 foot side yard setbacks. These setbacks are compatible with the neighborhood character.

The development in terms of number of houses proposed compared to average lot area would be similar to other lots in the immediate neighborhood. No natural vegetation would be removed from the ECA undisturbed portion of the site. The proposed houses could be similar in height, bulk and scale to several others built in the immediate neighborhood, and thus be reasonably compatible with neighborhood. The development will have no adverse effect on the pedestrian environment in the neighborhood. Thus the second criterion is met.

3. *In no case shall development credit be allowed for the area covered by open water area of a wetland or riparian corridor.*

No development is proposed for an area covered by open water of a wetland or riparian corridor, so this criterion is met.

4. *The development shall retain and protect vegetation on designated undisturbed areas on and off site. Significant species or stands of trees shall be protected, and tree removal shall be minimized. Replacement and establishment of trees and vegetation shall be required where it is practical to save trees.*

All proposed development would be limited to the area within the least sensitive area of the site. Some vegetation and trees will be removed due to proposed construction activities. Twelve big leaf maples with diameters between 8" to 16" will be preserved. Twelve trees with diameters between 8" and 14" within the proposed construction area would be removed from site. With the City's tree protection regulations (SMC 25.110) and conditions attached to this decision establishing the vegetated steep slope area as a non-disturbance area, the fourth criterion is satisfied by the proposal.

5. *The ability of natural drainage systems to control the quality and quantity of storm water runoff shall not be significantly impaired.*

There is no evidence of natural drainages occurring on the site. The proposed development would introduce a program of storm water management to reduce the possibility of erosion. The proposed storm water drainage would divert stormwater flow to a tight lined system. Perimeter footing drains and down spouts would also go into this system. A drainage control plan that complies with the City's Stormwater, Grading, and Drainage Control Code will be required in association with future building permits. As conditioned, the fifth criterion is met.

6. *The development shall not adversely affect water quality and quantity, erosion potential, drainage, and slope stability of other environmentally critical areas located in the same drainage basin.*

The proposed development will improve slope stability and reduce long term potential for erosion. No further disturbance to the steep slope will occur. The development, conditioned by the decision and in compliance with the City Codes, will not adversely affect other ECA areas in the same drainage basin. While the proposed development presents some risk of erosion during construction, the development must conform to the requirements of the landslide prone critical areas regulations and the Stormwater, Grading and Drainage Control regulations. An erosion and sediment control plan for the property employing Best Management Practices as outlined in DCLU Director's Rule 16-00 will be required with construction applications. If constructed in conformity to City regulations and Best Management Practices, the development will not adversely affect water quality, erosion, drainage, or slope stability. The sixth criterion is therefore satisfied.

7. *The development site plan shall include measures to minimize potential negative effects of the development on the undeveloped portion of the site, including the provision of natural barriers.*

As discussed above, the proposed site plan would minimize the negative effects of the development on non-disturbance areas of the site. The vegetated steep slope would provide a significant natural barrier to intrusion. The area is not practical to be used as a yard or garden.

8. *Adequate infrastructure (streets, and utilities) shall be available or shall be provided.*

Infrastructure required pursuant to City Code, and ordinances can be provided in association with future construction permit approvals. Vehicular access will be provided off of South Alaska Street and SDOT has approved this proposed access.

9. *The site design guidelines of Section 25.09.180 C shall be followed for designated steep slope areas.*

Section 25.09.180 C 1, states that structures should be designed and placed on the hillside to minimize negative impacts, such as grading and land disturbing activity. For this proposal, development would be clustered and disturbance of the steep slope will be minimized. The ninth criterion is met.

- F. *The Director may approve more than one dwelling unit per lot and may approve smaller than required lot sizes and yards to accommodate recovery of development credit, to encourage larger buffers, reduce impermeable surfaces, and decrease size of affected areas. Full development credit on site shall not be increased beyond that permitted by the underlying single-family zone.*

SMC Section 25.09.260.F authorizes the Director to approve smaller yards than ordinarily required in order to accommodate recovery of development credit and to encourage larger buffers, reduce impermeable surfaces, and decrease size of affected areas. The applicant has proposed smaller yards than required by the Land Use Code, since the proposed development can be constructed within the limits of the steep slope development standards. The structures are clustered on two legal lots. However, the applicant intends to apply for a unit lot subdivision in

the future that would create individual unit lots so that each house could be sold separately with the associated land area of the unit lot.

G. *The Director may require that structures be located on the site in order to preserve or enhance topographical conditions, adjacent uses and the lay out of the project and to maintain a compatible scale and design with the surrounding community. In order to approve clustered dwelling units in all environmentally critical areas, the following criteria shall be met:*

1. Clustering of units shall help to protect the following critical areas: riparian corridors, wetlands, and steep slopes.
2. Clustering of units shall require siting of structures to minimize disturbance of the environment.
3. Clustering of units shall help to protect priority species or stands of mature trees.
4. Clustering unit shall ensure maximum retention of topographical features.
5. Clustering of units shall limit location of access and circulation to maximize the protection of the area's natural character and environmental resources.
6. Clustering of units shall help protect the visual continuity of natural greenery, tree canopy, and wild life habitat.
7. Clustering of units shall not have an adverse impact on the character, design and scale of the surrounding neighborhood, and
8. Clustering of units shall promote expansion, restoration or enhancement of a riparian corridor and its buffer, a wetland and its buffer or a steep slope and its buffer.

Most of the clustering criteria have been discussed in the analysis of the recovery of development credit. Development will occur within the limitations of the ECA steep slope development standards. The proposed structures will be constructed on the least sensitive area of the site and the proposed drainage system would control surface run off down the steep slope thus avoiding potential erosion problems down the steep slope. The proposal will retain the topographical features on the remainder of the lot. Access and circulation to the three structures will be from South Alaska Street. By limiting development to the least sensitive area of the site, and preserving many of the existing trees and vegetation, the proposal suitably protects the visual continuity of the natural greenery and trees. The location of proposed development within the least sensitive area of the site represents the best area for construction with minimum disturbance of the steep slope critical areas and minimum grading or other land disturbing activity.

H. *Additional Conditional Use Provisions for Steep Slopes and Steep-Slope Buffers.*

1. In steep slope areas and their buffers, the Director may allow clustering on the steep slope portions of the site when the site is predominantly characterized by steep slopes. However, the preference shall be to cluster away from steep slope and buffer areas.
2. The Director shall require clear and convincing evidence that the clustering criteria and findings of the subchapter are met when a transfer of development credit within steep slope area is also characterized by or adjacent to:
  - a) *A wetland over fifteen hundred (1,500) square feet in size, or a stream or creek designated as a riparian corridor; or*
  - b) *A large (over five (5) acres) undeveloped steep slope system; or*
  - c) *Area designated by the Washington Department of Wildlife as Urban natural open space habitat areas or areas with significant tree cover providing valuable wildlife habitat.*

The development within the steep slope area is unavoidable because of the site. However, development within the slope will be minimized and adhere to guidelines set forth in Section 25.09.180 C 1. Criterion H.1 is satisfied. Criterion H.2 (a-c) is not applicable, since none of the features described are present on or adjacent to the site.

- B. *The Director may approve condition or deny an application for an administrative conditional use. The Director's decision shall be based on a determination of whether the proposed transfer of development credit within the site meets the criteria for allowing the specific conditional use and whether the use will be materially detrimental to the public welfare or injurious to property in the zone or vicinity in which the property is located.*

The proposed transfer of development credit and clustering within the site meets the conditional use criteria for approval. As proposed, and subject to the conditions of approval of the decision, the development will not be materially detrimental to the public welfare or injurious to property in the zone or vicinity in which the site is located.

- C. *In authorizing an administrative conditional use, the Director may mitigate adverse negative impacts by imposing requirements and conditions deemed necessary for the protection of other property in the zone or vicinity in which the property is located.*

Conditions have been included to mitigate potential adverse negative impacts. These conditions are set forth following the SEPA analysis below.

#### **DECISION – ADMINISTRATIVE CONDITIONAL USE**

The proposal to recover development credit and permit clustered development is **CONDITIONALLY GRANTED.**



## **ANALYSIS – SEPA**

The initial disclosure of the potential impacts from this project (administrative conditional use permit to recover development credit and permit clustered development of the future construction of three single family homes) was made in the annotated environmental checklist dated December 12, 2002, and supplemental information in the project files. This information, along with the experience of the lead agency in similar situations, forms the basis for this analysis and decision. Short and long-term adverse impacts are anticipated from the proposal.

Under SMC Section 25.09.908.B, the scope of environmental review within critical areas is limited to documenting that the proposal is consistent with ECA regulations, SMC Chapter 23.09, and evaluating potentially significant impacts on the environmentally critical areas resources not adequately addressed in the ECA Policies or the requirements of Chapter 25.09

The SEPA Overview Policy (SMC Section 25.05.665.D) states that “where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation,” subject to limitations.

Several adopted City codes and/or ordinances provide mitigation for identified impacts. Specifically these are: the Stormwater, Grading and Drainage Control Ordinance (grading, site excavation and soil erosion): Building Codes (construction standards): and ECA Ordinance. Compliance with these codes and ordinances will be adequate to achieve sufficient mitigation of identified impacts. The proposal, as conditioned by the decision, is determined to be consistent with ECA regulations. A more detailed discussion of some of the impacts is appropriate.

### **Short-term Impacts**

The following temporary or construction related impacts on the critical area resources are expected: potential soil erosion during grading, excavation and general site work; and increased runoff. Due to the ECA critical areas on site a more detailed discussion of some the impacts is appropriate.

### **Earth**

The ECA Ordinance and Directors Rule (DR) 3-93 requires submission of a soils report to evaluate the site conditions and provide recommendations for safe construction in areas with steep slopes, liquefaction zones, and/or a history of unstable soil conditions. Pursuant to this requirement the applicant submitted a Supplemental Geotechnical Considerations Letter prepared by Geotech Consultants, Inc. dated November 15, 2002. This letter referenced Preliminary Geotech Engineering Study, 38xx South Alaska Street (Parcel 2 and 3), Seattle, Washington; Geotech Consultants, Inc.; October 29, 1992. Based on the geotechnical engineering report and the supplemental letter the risk of damage to the proposed development, or to adjacent properties, from soil instability on this site is minimal. Additional information required showing conformance with the Environmentally Critical Areas Ordinance will be required prior to issuance of the building permits.

### Long-term Impacts

Potential long-term impacts that may occur as a result of this project include: 1) increased surface water runoff from greater site coverage by impervious surfaces, and 2) increased demand on public services and utilities. These long-term impacts are not considered significant because the impacts are minor in scope.

The long-term impacts are typical of single-family development and will be mitigated by the City's adopted codes and/or ordinances. Specifically these are: Stormwater, Grading, and Drainage Control Code (storm water runoff from additional site coverage by impervious surface; and the Regulations for Environmentally Critical Areas.

### **DECISION - SEPA**

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decision pursuant to SEPA.

- [X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.303(2)(C).
- [ ] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.303(2)(C).

### **CONDITIONS – ECA CONDITIONAL USE TO RECOVER DEVELOPMENT CREDIT AND PERMIT CLUSTERED DEVELOPMENT:**

Non-appealable ECA conditions

#### Conditions of Approval Prior to Issuance of Any Construction Permits

The owner and/or responsible party shall:

1. Submit for approval by DCLU a drainage control plan prepared by a licensed civil engineer meeting the requirements of the City's Stormwater, Grading and Drainage Control Code.
2. Show on the site plan(s) complete calculations for development coverage, impervious surface area, and construction activity areas, noting areas and percentages of site.
3. Show on the site plan(s) location of grading activities, including final grade contours, and drainage control facilities.

4. Show on the site plan(s) location of existing utilities and proposed methods/locations of connection(s) to these services as they relate to the ECA areas.
5. Show on the site plan(s) the location of permanent ECA markers.
6. Provide an erosion and sediment control plan, employing Best Management Practices, to minimize erosion on and off-site. The plan shall be reviewed and approved by DCLU.
7. Submit a sanitary sewer plan for approved by DCLU's Land Use Review section.
8. Record a standard DCLU Environmentally Critical Areas Covenant as approved by DCLU. The covenant shall show the location of permanent ECA markers and provide for their maintenance by the property owners or other responsible parties.
9. Prepare a geotechnical report in accordance with Director's Rule 3-93 and submit for review by DCLU at the time of building permit application.

**CONDITIONS - SEPA**

None required.

Signature: \_\_\_\_\_ (signature on file) Date: June 16, 2003  
Robert Knable, Environmental Site Development Planner  
Department of Design, Construction and Land Use  
Land Use Divisionasdfsadfasdfasd

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